

Please forward this to the board Chairman.

Chairman,

The issue with the District FOIA Officer that I mentioned last night, I talked about Yargus being able to be the FOIA officer if you paid her. The reasoning behind the pay issue is that a FOIA Officer must be an officer or an employee of the public body.

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=85&ChapterID=2>

## 5 ILCS 140/ Freedom of Information Act.

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Section 3.5 of the Freedom Of Information Act stipulates they must be officers or employees of the District.

Sec. 3.5. Freedom of Information officers.

(a) Each public body shall designate one or more officials or employees to act as its Freedom of Information officer or officers.

When you go outside the parameters set out in Section 3.5, you effectively give a non-employee or non-officer the exclusive rights to access and disseminate public records, and the reality of violating Section 3 (a) of the Act comes in play:

Sec. 3. (a) Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act. Notwithstanding any other law, a public body may not grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record as defined in this Act.

I'm not too sure the contracted attorney can be the FOIA officer either since that attorney would have exclusive rights "by contract".

As far as Yargus being the FOIA officer, I am personally opposed to it simply because she is a partner/employee in a business owned by a Commissioner and also the Commissioner's daughter. This creates the appearance of conflict even though it might technically not be a conflict - I did not research whether it was or not.

The appearance of wanting someone other than an employee as FOIA officer is sending the message to the public that you are attempting to hide things from them. I do not believe that to be the case, but others might not view it that way.

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Additionally,

The agenda item of "pursuit of attorney" was used to hire an attorney. I remember asking if you were going to use that agenda item to hire an attorney and you told me that you were just going to talk about it. Within a few minutes you proceeded to use it to hire an attorney.

I am asking that the issue of hiring an attorney be place on the next meeting agenda and re-voted because "pursuit of attorney" is not the same as "hire attorney" and should not have been used as such. Actionable agenda items need to be specific enough so that the public knows what you are contemplating taking action on so they can make up their minds if they want to attend that particular meeting or not.

I guess I'm having a problem trying to figure out why the agenda was misleading.

Please feel free to call me and discuss this if you would like additional information.

Thanks for your consideration,  
John Kraft